

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION,

CIVIL ACTION NO.

Plaintiff

COMPLAINT

V.

JURY TRIAL DEMAND

JACKSONS FOOD STORES, INC.,

Defendant.

NATURE OF THE ACTION

This is an action under Title I of the Americans with Disabilities Act, as amended by the ADA Amendments Act of 2008, 42 U.S.C. § 12101 *et. seq.*, (“ADA” and “ADAAA”) to correct unlawful employment practices on the basis of disability and to provide appropriate relief to Nathaniel Prugh, who was adversely affected by such practices. The Equal Employment Opportunity Commission alleges that Jacksons Food Stores, Inc. (“Defendant”) discriminated against Mr. Prugh, a qualified individual with a disability, when it failed to hire Mr. Prugh for a Customer Services Rep position on the basis of Mr. Prugh’s disability.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to Section 107(a) of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12117(a), which incorporates by

1 reference Sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §
2 2000e-5(f)(1) and (3) ("Title VII"), and pursuant to Section 102 of the Civil Rights Act of 1991,
3 42 U.S.C. § 1981a.

4 2. The employment practices alleged to be unlawful were committed within the
5 jurisdiction of the United States District Court for the Western District of Washington.
6

7 PARTIES

8 3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission" or
9 "EEOC"), is the agency of the United States of America charged with the administration,
10 interpretation and enforcement of Title I of the ADA and is expressly authorized to bring this
11 action by Section 107(a) of the ADA, 42 U.S.C. § 12117(a), which incorporates by reference
12 Sections 706(f)(1) and (3) of Title VII, 42 U.S.C. 2000e-5(f)(1).
13

14 4. At all relevant times, Defendant has continuously been doing business in the State
15 of Washington and has continuously had at least 15 employees.

16 5. At all relevant times, Defendant has continuously been an employer engaged in an
17 industry affecting commerce under Section 101(5) of the ADA, 42 U.S.C. § 12111(5), and
18 Section 101(7) of the ADA, 42 U.S.C. § 12111(7), which incorporates by reference Sections
19 701(g) and (h) of Title VII, 42 U.S.C. §§ 2000e(g) and (h).
20

21 6. At all relevant times, Defendant has been a covered entity under Section 101(2) of
22 the ADA, 42 U.S.C. § 12111(2).
23
24
25

ADMINISTRATIVE PROCEDURES

1
2 7. More than thirty (30) days prior to the institution of this lawsuit, Charging Party
3 Nathaniel Prugh filed a charge with the EEOC alleging violations of Title I of the ADA by
4 Defendant.

5 8. On May 23, 2017, the Commission issued to Defendant a Letter of Determination
6 finding reasonable cause to believe that Title I of the ADA was violated and inviting Defendant
7 to join with the Commission in informal methods of conciliation to endeavor to eliminate the
8 discriminatory practices and provide appropriate relief.

9
10 9. The Commission engaged in communications with Defendant to provide
11 Defendant the opportunity to remedy the discriminatory practices described in the Letter of
12 Determination.

13 10. The Commission was unable to secure from Defendant a conciliation agreement
14 acceptable to the Commission.

15 11. On August 14, 2017, the Commission issued to Defendant a Notice of Failure of
16 Conciliation.

17 12. All conditions precedent to the institution of this lawsuit have been fulfilled.

STATEMENT OF CLAIMS

18
19 20. Since at least January 2015, Defendant has engaged in unlawful employment
21 practices in violation of Section 102(a) of Title I of the ADA, 42 U.S.C. §§ 12112(a). Defendant
22 discriminated against Nathaniel Prugh when it failed to hire him for a Customer Services Rep
23 position at Defendant's Sammamish, Washington facility, Store #628, on the basis of his
24 disability, in violation of Section 102(a) of the ADA.

14. Mr. Prugh is a qualified individual with a disability under Section 3 and 101(8) of the ADA, 42 U.S.C. §§ 12102 and 12111(8). Mr. Prugh is deaf, which substantially limits the major life activity of hearing.

15. In or about January 2015, Mr. Prugh applied for a Customer Services Rep position at Defendant's Store #628 in Sammamish, Washington.

16. On or about January 15, 2015, Defendant's Store Manager contacted Mr. Prugh to set up an interview.

17. On or about January 15, 2015, Mr. Prugh notified Defendant that he is deaf and would need an American Sign Language (or “ASL”) interpreter for the interview.

18. On or about January 15, 2015, Defendant, through its Store Manager, denied Mr. Prugh's request for an interpreter and rescinded the opportunity for an interview.

19. The effect of the practices complained of in paragraphs 13 through 18 above has been to deprive Mr. Prugh of equal employment opportunities and otherwise adversely affect his status as an employee because of his disability.

20. The unlawful employment practices complained of in paragraphs 13 through 18 above were and are intentional.

21. The unlawful employment practices complained of in paragraphs 13 through 18 above were done with malice or with reckless indifference to the federally protected rights of Nathaniel Prugh.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

1 A. Grant a permanent injunction enjoining Defendant, its officers, agents, successors,
2 assigns, and all persons in active concert or participation with it, from unlawfully failing to
3 provide equal employment opportunities to applicants for employment and employees with
4 disabilities and to accommodate applicants' and employees' disabilities, and any other
5 employment practice which discriminates on the basis of disability.

6 B. Order Defendant to institute and carry out policies, practices, and programs which
7 provide equal employment opportunities for qualified individuals with disabilities, and which
8 eradicate the effects of its past and present unlawful employment practices.

9 C. Order Defendant to make whole Mr. Prugh by providing appropriate back pay
10 with interest, in amounts to be determined at trial, and other affirmative relief necessary to
11 eradicate the effects of its unlawful employment practices.

12 D. Order Defendant to make whole Mr. Prugh by providing compensation for past
13 and future pecuniary losses resulting from the unlawful employment practices described in
14 paragraphs 13 through 18 above, including past and future out-of-pocket losses, in amounts to be
15 determined at trial.

16 E. Order Defendant to make whole Mr. Prugh by providing compensation for past
17 and future non-pecuniary losses resulting from the unlawful practices complained of in
18 paragraph 13 above, including emotional pain, suffering, inconvenience, loss of enjoyment of
19 life, and humiliation, in amounts to be determined at trial.

20 F. Order Defendant to pay Mr. Prugh punitive damages for its malicious or reckless
21 conduct, as described in paragraphs 13 through 18 above, in amounts to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper in the public interest.

H. Award the Commission its costs of this action.

JURY TRIAL DEMAND

The Commission requests a jury trial on all questions of fact raised by its complaint.

DATED this 24th day of August, 2017.

ROBERTA L. STEELE
Regional Attorney

BY: /s/ Roberta L. Steele

EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
909 First Avenue, Suite 400
Seattle, WA 98104-1061
Telephone (206) 220-6919
Facsimile (206) 220-6911
Roberta.steele@eeoc.gov

JOHN F. STANLEY
Supervisory Trial Attorney
John.stanley@eeoc.gov

MAY R. CHE
Senior Trial Attorney
May.che@eeoc.gov

JAMES L. LEE
Deputy General Counsel

GWENDOLYN Y. REAMS
Associate General Counsel

Office of the General Counsel
131 M Street, N.E.
Washington, D.C. 20507

Attorneys for Plaintiff EEOC